

Exhibit 9

State of California ex rel. Ven-A-Care of the Florida Keys, Inc.
v. Abbott Laboratories, Inc., et al., Master Civil Action No. 01-12257-PBS,
Subcategory Case No. 06-11337

**Exhibit to the December 21, 2009 Declaration of Sarah L. Reid in Support
of Dey's Opposition to Plaintiffs' Motion for Partial Summary Judgment**

IN THE COURT OF THE SECOND JUDICIAL CIRCUIT IN AND FOR
LEON COUNTY, FLORIDA

THE STATE OF FLORIDA)

ex rel.)

VEN-A-CARE OF THE)
FLORIDA KEYS, INC.,)
a Florida Corporation, by)
and through its principal)
officers and directors,)
ZACHARY T. BENTLY and)
T. MARK JONES,)

Plaintiffs,)

VS.)

CIVIL ACTION NO.
98-3032A

BOEHRINGER INGELHEIM)
CORPORATION; DEY, INC.; DEY,)
L.P.; EMD PHARMACEUTICALS,)
INC.; LIPHA, S.A.; MERCK,)
KgaA; MERCK-LIPHA, S.A.;)
SCHERING CORPORATION;)
SCHERING-PLOUGH CORPORATION;)
ROXANE LABORATORIES, INC.;)
and WARRICK PHARMACEUTICALS)
CORPORATION,)

Defendants.)

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VIDEOTAPED DEPOSITION OF

TODD CHRISTOPHER GALLES

VOLUME 1

February 28, 2006

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1 because that meant the pharmacist had to dispense that
2 product.

3 Q. What other strategies did you employ while
4 you were at Dey Laboratories to maximize the exposure
5 of the generics that you were responsible for in the
6 market? 10:08

7 MS. GIULIANA: Object to the form.

8 Q. (BY MR. THOMAS) You can answer.

9 A. Well, one additional strategy was to attend
10 trade shows. 10:09

11 Q. You had mentioned in response to a question I
12 had asked you didn't just market on price while you
13 were employed with Dey Laboratories. Is price an
14 important part of marketing in the generic
15 marketplace? 10:09

16 MR. McDONALD: Object to the form.

17 MS. GIULIANA: Object to the form.

18 A. Price certainly can be and it -- I think as
19 long as it's a level playing field, which was always
20 my goal, it -- it shouldn't be. I mean, first of all,
21 generics are all offering a discount off of brand, so
22 with regard of having a lower price than the brand,
23 it's critical. But having the same price parity to
24 other generics, then it was fine. Then you could talk
25 about packaging. You could say for Ipratropium you 10:10

1 are using, whatever, 25 percent of the same -- of the
2 shelf space that their package would offer and you
3 could say, okay, what is that worth to you on your --
4 your shelf. You could talk about maybe wastage due to
5 packaging. Different things like that.

10:10

6 But if -- if your price wasn't in line,
7 then it probably would become an issue for sales. So
8 I tried to -- I focused on showing the benefits of the
9 product. And for the most part generics should all be
10 in the same range. Once a product is launched, the
11 pricing erodes down over time, but it generally erodes
12 down in combination with all the other products in
13 that segment.

10:10

14 Q. When you say that there need be price parity
15 with other generics in order to be able to address
16 other marketing issues, how -- how is price parity
17 achieved?

10:11

18 MS. GIULIANA: Object to the form.

19 A. Well, initially I would analyze the market
20 and if there were generics in the market I would
21 recommend a price within a tight range to the generics
22 that were there because that's the price the market
23 would bear. If -- I think there was always a generic
24 there. I guess for cromolyn, I don't think I probably
25 set the price for cromolyn because I think I came in

10:11

10:12